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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91174641
Party	Defendant PLMIC, LLC PLMIC, LLC 18 PEARL STREET MIDDLEBOROUGH, MA 02346
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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

**PARAMETRIC TECHNOLOGY CORPORATION,**

**Opposer**

**v.**

**PLMIC, LLC**

**Applicant**

**Opp. No. 91174641**

**Serial No. 78835516**

**ANSWER TO OPPOSITION**

PLMIC, LLC (“Applicant”) answers as follows the Opposition of Parametric Technology Corporation (“Opposer”):

1. Opposer, since before any use by Applicant of its mark, has continuously used the mark FLEXPLM, in the field of computer software for product lifecycle management and the automation of design information; the establishment and control of workflows, shared workspaces and production processes in the nature of product design and creation; product configuration and data management; collaboration and process control; the visualization and digital mockup of designs, and use in software configuration and development, along with user guides sold with such software as a unit; and technical support services, namely, troubleshooting of computer software problems via telephone; updating of computer software; maintenance of computer software, namely, error correction services for computer software; consultation and software implementation services; and product development for others.

**ANSWER:** As to Opposer’s having used FLEXPLM before Applicant, denied. As to the remaining allegations, without sufficient information. Further answering, FLEXPLM was first used, and was first used in commerce, by Applicant’s predecessor in title, Jason Silvestri, who is the sole member and managing member of Applicant. Mr. Silvestri first used FLEXPLM

in commerce at least as early as July 20, 2004, and used it in connection with “cooperative advertising and marketing of products and services by way of solicitation, customer service and providing marketing information via websites on a global computer network.” By an assignment executed on May 24, 2006, Mr. Silvestri assigned to Applicant all of his rights and interests in FLEXPLM, including his rights and interests in the pending Application. This assignment was recorded at the PTO on June 23, 2006. On information and belief based on USPTO records, Opposer’s first use of FLEXPLM, and first use thereof in commerce, was (a) January 2006 in connection with the specified computer software and (b) December 2005 in connection with the specified technical support services.

2. Opposer is the owner of U.S. Trademark Application No. 76/662,967 filed July 13, 2006, for the mark FLEXPLM for

computer software for product lifecycle management and the automation of design information; the establishment and control of workflows, shared workspaces and production processes in the nature of product design and creation; product configuration and data management; collaboration and process control; the visualization and digital mockup of designs, and use in software configuration and development, along with user guides sold with such software as a unit, in class 9;

and

technical support services, namely, troubleshooting of computer software problems via telephone; updating of computer software; maintenance of computer software, namely, error correction services for computer software; consultation and software implementation services; and product development for others, in class 42.

**ANSWER: Admitted to the extent it accurately reflects what is a matter of record at the PTO. Denied otherwise.**

3. Applicant, PLMIC, LLC, filed application Serial No. 78/835,516 on March 13, 2006 for FlexPLM for “cooperative advertising and marketing of products and services by way of solicitation, customer service and providing marketing information via websites on a global computer network.”

The application was published for opposition in the Official Gazette of October 31, 2006.

**ANSWER: Denied that PLMIC, LLC filed such application. It was in fact filed by Mr. Silvestri, and later assigned to Applicant. See the Answer to ¶1. Admitted that such application was published for opposition in the Official Gazette of October 31, 2006.**

4. The services recited in application Serial No. 78/835,516, are similar to the goods and services offered by Opposer under its trademark FLEXPLM.

**ANSWER: Without sufficient information as to the specific nature of Opposer's goods and services.**

5. The mark FlexPLM sought to be registered by Applicant, when used on or in connection with the services recited in the application, will so resemble the mark, FLEXPLM, as used by Opposer, as to cause confusion, or to cause mistake, or to deceive.

**ANSWER: Without sufficient information as to the specific nature of Opposer's goods and services. Further answering, even if the services of Applicant and Opposer in connection with FLEXPLM are similar, Applicant, as the assignee of Mr. Silvestri, is the senior user of the mark and thus has priority. Any resulting confusion, mistake, or deception is the fault of Opposer, not Applicant.**

6. Opposer will be damaged by registration of Applicant's mark, since the Applicant would obtain at least a prima facie right to the ownership and exclusive use of the mark in commerce for the services recited in the application.

**ANSWER: Denied. See the Answers to ¶¶1 and 5.**

7. Opposer will be damaged by registration of Applicant's mark since the Applicant would be in a position to raise doubts as to the extent of Opposer's right to the ownership and exclusive use of its mark.

**ANSWER:**    **Denied.** *See the Answers to ¶¶1 and 5.*

**AFFIRMATIVE DEFENSES**

1<sup>st</sup>      Opposer fails to state a claim on which relief may be granted.

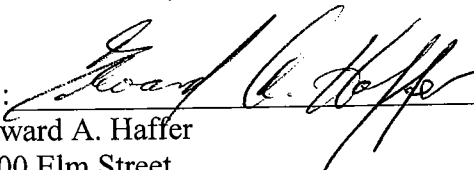
2<sup>nd</sup>      Even if the goods and services of Opposer and Applicant in connection with FLEXPLM are similar, Applicant, as the assignee of Mr. Silvestri, is the senior user of the mark and thus has priority. Any resulting confusion, mistake, or deception is the fault of Opposer, not Applicant.

WHEREFORE, Applicant respectfully requests the following relief:

- A.      An Order denying the Opposition.
- B.      An Order granting Applicant its attorneys' fees.
- C.      An Order granting Applicant such other relief as is just.

Respectfully submitted,  
PLMIC, LLC,  
By its attorneys,  
Sheehan Phinney Bass & Green, P.A.

February 23, 2007

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**CERTIFICATE OF SERVICE**

I certify that a copy of the foregoing was sent this date by Federal Express to Thomas V. Smurzynski, Esq., Lahive & Cockfield, LLP, One Post Office Square, Boston, MA 02109.

  
Edward A. Haffer